

HONORABLE MICHELLE PETERSON

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

NANNETTE BASA, an individual,  
  
Plaintiff,  
  
v.  
  
BRAND SHARED SERVICES, LLC, a  
Delaware corporation,  
  
Defendant.

Case No. 2:21-cv-00754 JLR

DEFENDANT BRAND SHARED  
SERVICES, LLC'S REPLY IN SUPPORT  
OF ITS MOTION FOR PROTECTIVE  
ORDER QUASHING DEPOSITION OF  
MEG NEWMAN

**HEARING DATE:**  
**FRIDAY, SEPTEMBER 9, 2022**

*LCR 26(c) Discovery Conference*  
*Conducted on August 22, 2022*

**BRAND'S MOTION FOR A PROTECTIVE ORDER SHOULD BE GRANTED**

**A. Plaintiff's Own Response Supports Quashing Meg Newman's Deposition.**

Remarkably, Plaintiff's response confirms the exigent need to quash Meg Newman's deposition. Plaintiff's response boils down to three arguments, which are each addressed below.

First, Plaintiff can only specifically recall two times that she spoke with Ms. Newman in the entire time they both worked at Brand: (i) an introductory call in September 2019 (when Ms. Newman first joined the company); and (ii) a 10-15 call that occurred after a town-hall-style meeting (i.e., "listening session") in which Plaintiff expressed concerns about her future at the company based on the fact that the work she was doing would soon no longer be necessary.

DEFENDANT'S REPLY IN SUPPORT OF ITS MOTION FOR PROTECTIVE  
ORDER QUASHING DEPOSITION OF MEG NEWMAN- 1  
(CAUSE NO. 2:2-CV-00754 JLR)

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1 *Declaration of Nannette Basa in Support of Plaintiff's Opposition to Defendant's Motion for*  
 2 *Protective Order ("Basa Decl.")* ¶¶ 6-7; *Declaration of Alex J. Higgins in Support of Plaintiff's*  
 3 *Opposition to Defendant's Motion for Protective Order ("Higgins Decl."),* Ex. 7.

4 This is entirely consistent with the evidence Brand provided in support of its motion:  
 5 Ms. Newman is a C-suite executive who only had a couple of cursory interactions with Plaintiff.  
 6 *Declaration of Meg Newman in Support of Defendant's Motion for Protective Order Quashing*  
 7 *Deposition of Meg Newman ("Newman Decl.")* ¶¶ 2-4. Ms. Newman oversaw a department of  
 8 244 people and was located in Georgia. *Id.* She did not manage Plaintiff (who worked remotely  
 9 in Seattle), nor did she have any reason to communicate with Plaintiff on any consistent basis.  
 10 *Id.* As Plaintiff herself admits, she and Ms. Newman did not really know each other.

11 *Declaration of Emma Kazaryan in Support of Defendant's Motion for Protective Order*  
 12 *Quashing Deposition of Meg Newman ("Kazaryan Decl."),* ¶ 15, Ex. I (excerpt from Plaintiff's  
 13 deposition: "If you are asking if I like Meg [Newman] or not, I -- there wasn't even time for me  
 14 to get to know her or her approach to get to know me.").

15 Further, Ms. Newman did not make the decision to select Plaintiff for the layoff in  
 16 December 2020: the decision was made by Karen Riapos and Michelle Roman. *Newman Decl.*  
 17 ¶ 5; *Kazaryan Decl.* ¶ 11, Ex. F (Brand's discovery responses unequivocally stating that Ms.  
 18 Riapos and Ms. Roman made the decision to terminate Plaintiff's employment); *Kazaryan Decl.*  
 19 ¶ 12, Ex. G (Ms. Riapos's deposition testimony that she and Ms. Roman made the decision to  
 20 terminate Plaintiff's employment). Ms. Newman's testimony is simply unnecessary to explore  
 21 why or how Plaintiff was identified for layoff.  
 22  
 23  
 24  
 25  
 26

1 Second, the emails referenced in Plaintiff's response demonstrate exactly what Brand  
2 said in its motion: Ms. Newman does not have unique, first-hand, non-repetitive knowledge of  
3 the issues in this case. Plaintiff relies on only two emails (out of tens of thousands produced) in  
4 which Ms. Newman was a recipient. Both are from Plaintiff's former supervisor, Karen Riapos,  
5 and both demonstrate that Ms. Riapos needed to relay information to Ms. Newman (who did not  
6 have direct knowledge about Plaintiff or the scope of her work). *Higgins Decl.*, Exs. 5, 7. In  
7 one of the emails, Ms. Newman directly asks Ms. Riapos to assist with Plaintiff's inquiry (the  
8 second meeting referenced above) about Plaintiff's future at Brand.<sup>1</sup> *Higgins Decl.*, Ex. 7.

10 The other email is a status update from Ms. Riapos to Ms. Newman about a wide array  
11 of topics. *Higgins Decl.*, Ex. 5. As Brand's counsel reminded Plaintiff's counsel in the  
12 discovery conference that preceded this motion, Ms. Riapos testified about this very same email  
13 at her deposition and made clear that the sum-and-substance of the discussion was her relaying  
14 information to Ms. Newman. *Kazaryan Decl.*, Ex. M.

16 Third, although Plaintiff is correct that Brand identified Ms. Newman in its initial  
17 disclosures at the outset of litigation, Brand wrote that Ms. Newman "*may* have general  
18 information..." *Higgins Decl.*, Ex. 8 (emphasis added). Brand did not unequivocally state that  
19 Ms. Newman *does* have specific information. *Id.* As this case unfolded, and after many months  
20 of intense discovery, it became clear that Ms. Newman **does not** have unique, first-hand, non-  
21 repetitive knowledge of the issues in this case. Notably, in discovery, Brand did not identify  
22 Ms. Newman as a person responsible for selecting Plaintiff for the December 2020 layoff.

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25 <sup>1</sup> Notably, this is related to the "listening session" discussed *supra*. The interactions between Plaintiff and Ms.  
26 Newman are even fewer and less substantive than they may seem.

1 *Kazaryan Decl.*, ¶ 11, Ex. F. Brand should not be penalized for preparing a comprehensive  
 2 initial disclosure that erred on the side of being inclusive.

3 **B. This Deposition is Calculated to Harass or Annoy Ms. Newman and Brand.**

4 During the discovery conference that preceded this motion, and in detailed email  
 5 correspondence that followed, Brand's counsel meticulously laid out why it is inappropriate to  
 6 hale Ms. Newman into a deposition in this case. Notably, all of the proffered reasons are  
 7 uncontroverted:  
 8

- 9 • Ms. Newman is a senior C-suite executive who never met Ms. Basa in person and  
 10 was always at least two reporting levels removed from Ms. Basa;<sup>2</sup>
- 11 • Plaintiff and Ms. Newman do not really know each other and only had a few  
 12 cursory interactions by virtue of the fact that Ms. Newman oversaw the entire  
 244-person department that Plaintiff was part of;<sup>3,4,5</sup>
- 13 • Ms. Riapos and Ms. Roman – not Ms. Newman – made the decision to terminate  
 14 Ms. Basa's employment;<sup>6,7,8</sup>
- 15 • Ms. Newman's name has not come up in the substantive discussions about why  
 16 Plaintiff was selected for layoff; and
- 17 • Ms. Newman does not have unique, first-hand, non-repetitive knowledge of the  
 18 issues in this case.

21 \_\_\_\_\_  
 22 <sup>2</sup> *Newman Decl.* ¶¶ 2-3

<sup>3</sup> *Newman Decl.* ¶ 4

<sup>4</sup> Excerpt from Plaintiff's deposition: "If you are asking if I like Meg [Newman] or not, I -- there wasn't even time for me to get to know her or her approach to get to know me." *Kazaryan Decl.* ¶ 15, Ex. I.

<sup>5</sup> *Basa Decl.* ¶¶ 6-7

<sup>6</sup> *Newman Decl.* ¶ 5

<sup>7</sup> *Kazaryan Decl.* ¶ 11, Ex. F (Brand's discovery responses unequivocally stating that Ms. Riapos and Ms. Roman made the decision to terminate Plaintiff's employment)

<sup>8</sup> *Kazaryan Decl.* ¶ 12, Ex. G (Ms. Riapos's deposition testimony that she and Ms. Roman made the decision to terminate Plaintiff's employment)

1 Further, in the meet-and-confer that preceded this motion and the email correspondence that  
2 followed, Brand's counsel addressed the counterpoints raised by Plaintiff's counsel in detail.  
3 See *Kazaryan Decl.*, Ex. M.

4 Yet either Plaintiff or her counsel (or both) refuse to listen to logic and reason and insist  
5 on forcing Ms. Newman to attend an unnecessary deposition. In a case where Plaintiff's  
6 discovery has already eclipsed the value of her claims, the insistence on deposing Ms. Newman  
7 absolutely appears calculated to harass, burden, annoy, and drive up defense costs rather than  
8 uncover relevant evidence.  
9

10 **C. Plaintiff's Request for Fees Should be Denied.**

11 Under CR 37(a)(5)(B), "the [C]ourt must not order [fees] if the motion was substantially  
12 justified or other circumstances make an award of expenses unjust."  
13

14 Even if the Court is persuaded that Ms. Newman should be deposed in this case, Brand  
15 should not be required to pay Plaintiff's fees to defend the motion for a protective order because  
16 Brand's motion was substantially justified. As demonstrated by Brand's motion and this reply,  
17 and the detailed discovery conference that preceded the motion, the motion is grounded in law  
18 and fact.

19 Further, Brand makes this discovery motion with adequate consideration. In the course  
20 of discovery, Plaintiff's counsel has battered Brand with five sets of interrogatories and requests  
21 for production, at least eight depositions of Brand and its former employees (and Plaintiff's  
22 counsel is seeking a ninth), and has requested numerous discovery conferences. *Reply*

23 *Declaration of Emma Kazaryan in Support of Defendant's Motion for Protective Order*

24 *Quashing Deposition of Meg Newman ("Reply Decl.")*, ¶¶ 2-4. Brand has cooperated with each  
25

request:

- Brand has produced tens of thousands of pages of documents (even though the large majority of the documents sought were irrelevant);<sup>9</sup>
- Brand has duly answered Plaintiff's numerous and often repetitive interrogatories;<sup>9</sup>
- Brand has produced (or intends to produce) each of the other deponents sought by Plaintiff that are within Brand's control;<sup>9</sup> and
- Brand's counsel has quickly responded to and cooperated with every single request for a discovery conference.<sup>9</sup>

This is not a party trying to evade reasonable discovery.<sup>10</sup> This motion is more than substantially justified based on the level of discovery produced and fees should not be awarded against Brand.

**D. Ms. Newman's Deposition Should be Quashed.**

For all of the foregoing reasons, as well as those set forth in Brand's original motion, Brand respectfully requests that this Court grant its motion for a protective order and quash Plaintiff's request for a deposition of Meg Newman.

DATED this 9th day of September, 2022.

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<sup>9</sup> *Kazaryan Decl.* ¶¶ 7-9; *Reply Decl.* ¶¶ 3-4.

<sup>10</sup> Though Plaintiff's discovery demands have **not** been reasonable and have already exacted undue burden and expense on Brand.

**CERTIFICATE OF SERVICE**

I hereby declare that on this 9th day of September, 2022, I caused a copy of *Defendant Brand Shared Services, LLC's Reply in Support of Motion for Protective Order Quashing Deposition of Meg Newman* to be electronically filed with the Court using ECF-Filing system which will send notification of such filing to the following:

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s/Valerie Macan  
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